

General Terms and Business Conditions of IMST Design + Systems International GmbH

The General Terms and Conditions set forth below shall apply between IMST Design + Systems International GmbH - hereinafter also referred to as contractor - and its customer - hereinafter also referred to as customer - to any contractual performance as agreed unless other terms and conditions are expressly agreed in writing in accordance with paragraph 12 below. Any diverging general terms and conditions or terms and conditions of purchase or sale of the respective customer shall not become part of the contract for the respective order in the absence of an express objection by IMST Design + Systems International GmbH and in particular by tacit agreement.

1. Object of the order (scope of performance)

The information contained in the quotation, in particular in the description of tasks, describes the objective of the order. Unless otherwise expressly agreed in writing, IMST Design + Systems International GmbH shall be bound by a quotation for four (4) weeks. When an order is placed, the scope of performance due shall be determined by the quotation. The customer shall place the order by signing the quotation form – which is at the same time the order form - with legally binding effect. Where the form of order placement differs from this, the validity of the order in question shall depend upon the express written consent of IMST Design + Systems International GmbH. This shall also apply where the content of the order placed differs from the prior quotation. If IMST Design + Systems International GmbH takes over supplies or other work results of the customer or third parties with the customer's consent, the customer shall be responsible for the intended function, compliance with the specifications respectively the correctness of the results of the supplies unless inspection of the supplies is the object of the contractual instruction. The customer shall receive the result of the order in report form unless otherwise expressly agreed. The contractor shall be authorised to provide part performance.

2. Time of performance

Order processing shall begin at the earliest upon placement of the order according to Paragraph 1, otherwise on the date specified in the order confirmation. The periods for delivery and performance specified in the quotation or order shall on principle be without obligation. IMST Design + Systems International GmbH shall only be bound by periods for delivery and performance if this has been expressly agreed in writing and the customer's preliminary information, on which the stipulation of these periods was based, is relevant. In the normal case of non-binding periods for delivery and performance, IMST Design + Systems International GmbH undertakes, if it is obvious that the notified periods are not sufficient due to reasons for which the contractor is not responsible, to notify the customer thereof, stating a reasonable extension of time. Modifying agreements relating to the scope of performance during order processing shall result in a corresponding adjustment of the relevant periods. This new period must be agreed by the contractor and customer.

3. Payment and payment terms

Where possible, the precise scope of performance shall be specified on the basis of the customer's preliminary information and a fixed price agreed. In the event of the customer's preliminary information proving inappropriate or the scope of performance due from the contractor under the contract being changed by additional performance requirements or requests for modification by the customer during order execution, the fixed price shall be adjusted to the modified scope of performance in agreement with the customer. If it is agreed contractually that invoicing shall be according to expenditure, this shall be calculated according to expenditure up to the stipulated upper limit of payment. In this respect, IMST Design + Systems International GmbH undertakes, if it is obvious that the agreed upper cost limit shall be exceeded without achieving the intended objective of the order, to immediately notify the customer and to submit suggestions concerning further procedure.

4. Due date of payments

Payments shall be due as of the dates specified in the contractor's quotation or order confirmation. The debtor under a payment claim shall be in default at the latest if he/she fails to make payment within 30 days of the due date and receipt of an invoice or equivalent payment statement (Article 286, Paragraph 3, BGB [German Civil Code]). Crediting of the invoice amount to the contractor's bank account specified on the invoice shall be decisive in complying with the payment term. The customer shall only be authorised to set off counterclaims which have become res judicata, are undisputed or expressly recognised in writing by IMST Design + Systems International GmbH against the contractually agreed payment.

5. Rights to the object of the contract

The customer shall have a non-exclusive right to use the specific result of the order with respect to property rights, copyrights and other value added from ideas ("know-how"). If, in performing the contract, recourse is taken to already existing rights of IMST Design + Systems International GmbH, the customer shall receive a non-exclusive right of use thereto if this is required to use the object of the contract. If the customer must take recourse to already existing rights of IMST Design + Systems International GmbH to use the object of the contract, the contractor shall grant the customer a non-exclusive, non-gratuitous right of use to these rights to be agreed separately. If IMST Design + Systems International GmbH intends to abandon rights, to which rights of use of the customer have arisen, the customer shall notify IMST Design + Systems International GmbH immediately of this in writing and, upon the customer's written request, IMST Design + Systems International GmbH shall transfer such rights on reasonable conditions by special written agreement. IMST Design + Systems International GmbH shall in any case retain a non-gratuitous, non-exclusive right to use all property rights and copyrights as well as to the relevant "know-how" for purposes in science and research in accordance with the memorandum of association.

6. Customer's supplies / cooperation

The scope and quality of the contractor's performance shall be decisively dependent upon the scope and quality of the customer's cooperation. The customer accordingly undertakes to provide all necessary cooperation in due time and free of charge for the contractor. The customer shall have the same obligation with respect to its vicarious agents. If the customer fails to comply with its obligation to cooperate in this respect, in particular by providing delayed, incorrect or incomplete information, the customer shall bear the additional cost thus incurred. This shall include in particular the additional costs for delays and repetition of performance caused by the customer's violation of the obligation to cooperate. IMST Design + Systems International GmbH shall not pay compensation in any way whatsoever for damages or expenses caused by faulty or incomplete preliminary performance or cooperation of the customer which is not according to the contract. Periods agreed by contract shall be suspended in the event of the customer's failure to cooperate in due time until the corresponding cooperation takes place.

7. Retention of title

The customer shall have title and rights to use the object of the contract only when payment of the contractual payment has been made in full. Until such time, IMST Design + Systems International GmbH shall retain title and right of use in corresponding application of Art. 449 BGB, and may not be pledged or transferred by way of security by the contractor. The customer shall however be allowed to resell the object of the contract in the ordinary course of business. The customer undertakes in this respect to assign already to IMST Design + Systems International GmbH in advance all the claims arising from the sale respectively granting of rights of use.

8. Warranty

According to the state of the art, it is generally not possible to establish all errors or deviations in products, systems and developments in information and telecommunications technology under all application conditions. Therefore, IMST Design + Systems International GmbH shall not give a comprehensive warranty for the success of the object of the contract or realisation of the objective of the order. IMST Design + Systems International GmbH undertakes within the scope of implied warranty to comply with scientific diligence and the recognised rules of the art in the proper processing and documentation of the contractually agreed performance. The contractor expressly does not assume any further warranty to the effect that it was possible to recognise and document all product or system errors and deviations and to take these into account in executing the order. The warranty period is one year. The customer shall be obliged both during execution of the contract and during the warranty period to notify the contractor immediately in writing immediately of

any obvious product and system errors or deviations arising in its sphere. The customer can first only request the contractor within the scope of the warranty to rectify the error free of charge according to the state of the art. The customer shall be entitled to further warranty rights only if IMST Design + Systems International GmbH fails to rectify the error within a reasonable period of time or rectification of the error finally fails.

9. Limitation on Liability for Damages

9.1. Unless provided otherwise below, liability of IMST Design + Systems International GmbH is precluded, regardless of legal basis. Other than in the cases described below, IMST Design + Systems International GmbH in particular assumes no liability for any breach of ancillary obligations, lack of commercial success, lost profit, indirect damages, consequential damages from defects, and damages resulting from claims by third parties against the customer.

9.2. IMST Design + Systems International GmbH is liable for damages only pursuant to the law, insofar as the customer asserts claims for damages based on intent or gross negligence, including intent or gross negligence on the part of IMST Design + Systems International GmbH's representatives or persons used to perform an obligation. Unless IMST Design + Systems International GmbH is accused of intentional breach of contract, liability for damages is limited to foreseeable damages typical for contracts.

9.3. IMST Design + Systems International GmbH is liable for damages only pursuant to the law, insofar as it culpably breaches an essential contractual duty; in this case as well, however, liability for damages is limited to foreseeable damages typical for contracts. By "essential contractual duty" is meant a duty whose fulfillment is fundamentally necessary for carrying out the contract and upon whose compliance the customer is normally entitled to rely.

9.4. IMST Design + Systems International GmbH is liable for damages only pursuant to the law for culpable injury to life, body, or health; the same applies for mandatory liability under the German Product Liability Act (*Produkthaftungsgesetz*).

9.5. In addition, in the case of default, IMST Design + Systems International GmbH is liable pursuant to the law, insofar as a fixed delivery date has been set within the meaning of Article 286, paragraph 2, no. 4 of the German Civil Code (*Bürgerliches Gesetzbuch, BGB*) or Article 376 of the German Commercial Code (*Handelsgesetzbuch, HGB*). In addition, in the case of default, IMST Design + Systems International GmbH is liable pursuant to the law, insofar as, due to a default for which IMST Design + Systems International GmbH is responsible, the customer is entitled to claim that it is no longer interested in continued contractual performance.

9.6. The above-described limitations on liability in favor of IMST Design + Systems International GmbH also run to the same extent in favor of its employees, managers, and representative bodies.

10. Confidentiality

In the interest of the free exchange of ideas between the contracting partners, the contractor and customer shall treat all know-how, documents, terms of reference and business transactions of the respective other contractual partner under this contract confidentially with respect to third parties. The mutual obligation of the contracting partners to treat such information confidentially shall exist during the term of the contractual relations and shall survive thereafter for a period of 3 years. The obligation of secrecy shall not apply to information which was already known to the parties prior to the contract, in particular was in the public domain without violation of the contractual obligation of confidentiality or access has been given to the parties by a third party authorised to do so.

11. Rescission and Termination

11.1. If the Customer fails to provide the requisite cooperation or if the information it supplies is incomplete or unsuitable, IMST Design + Systems International GmbH is entitled to set a reasonable deadline for fulfilling such co-operational and informational obligations and, in the event such obligations remain unfulfilled upon expiry of such dead-line, to terminate the contract without notice. Furthermore, IMST Design + Systems International GmbH is entitled to terminate the contract without notice if the Customer, by breaching its duty to cooperate and provide information, or by requesting changes, causes work to be done that is beyond the scope of the contractually agreed order calculation and has not assumed the added costs following expiry of a reasonable deadline set by IMST Design + Systems International GmbH. The Customer must reimburse all costs incurred by IMST Design + Systems International GmbH as a result of such termination without notice.

11.2. Following effective termination, IMST Design + Systems International GmbH will provide the Customer with the work product generated so such point. The Customer is obligated to pay IMST Design + Systems International GmbH the (partial) compensation owed it at such point under the contract.

12. Written form

Any collateral agreements, amendments and modifications shall only be valid when given in writing and as far they are contradicting to this General Terms and Business Conditions.

13. Place of performance / Legal venue

Place of performance for any obligation to perform arising from the contractual relationship between IMST Design + Systems International GmbH and merchants within the meaning of the German Commercial Code (*Handelsgesetzbuch, HGB*) is the contractor's registered office unless otherwise expressly agreed in writing. Any disputes arising from the contractual relationship between IMST Design + Systems International GmbH and merchants within the meaning of the German Commercial Code (*Handelsgesetzbuch, HGB*) shall be settled before a competent Rheinberg court of law unless otherwise expressly agreed in writing.

14. Severability clause

If any term or condition or part of a term or condition of these General Terms and Conditions is not legally valid, this shall not affect the validity of the other terms and conditions and parts thereof. The corresponding legal stipulation shall be deemed agreed between the contracting parties in place of the invalid (part) term or condition.